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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3885 OF 2007

1. Bipin Sohanlal Jain
2. Rameshkumar Meghraj Khandelwal
3. Manish Kaporchand Nanavati .. Applicants

Versus

1. State of Maharashtra
2. Navratnamal Jinmal Ganna .. Respondents

Mr.A.P. Mundargi i/b Mr.Shaunak Mehta for the applicant.

Mr.K.V. Saste, A.P.P. for the State.

Mr.S.V. Marwadi for respondent no.2.

CORAM : D.G. KARNIK, J.

DATE : 12TH DECEMBER 2007

P.C. :

1. Heard the learned counsel for the applicants, the respondent no.2 - the original complainant and the learned A.P.P. for the State.

2. The applicants, who are the employees of the complainant, were entrusted with the gold ornaments for carriage from Mumbai to Hyderabad. The applicants along with the son of the complainant were travelling in a

Volvo bus. While the bus stopped at Dehu Road for the passengers to have dinner, it appears that the ornaments were stolen from a bag kept in the bus. While all the passengers alighted for the dinner, one of the passengers was in the bus who gave a statement that the applicant no.2 had come to the bus and removed something from the bag. On the basis of this statement, the applicants have been arrested.

3. It is worthwhile to note that though the applicants were in police custody for more than 12-13 days, no recovery has been made. Thereafter, the applicants are in magisterial custody and their total period of custody is more than 45 days. It is also worthwhile to note that the son of the complainant, who was travelling with the applicants and who had also alighted along with the applicants for the dinner, has not stated that the applicant no.2 went back to the bus under any pretext. Presumably, all of them were together. Admittedly, except one passenger all the other passengers in the bus had alighted for dinner. The passenger, who was in the bus, is not made an accused in the case nor has any investigation carried out qua her.

4. Taking an overall view of the matter, considering the evidence available on record and the

facts which have been briefly narrated above and also taking into consideration the fact that the applicants are in custody for more than 45 days out of which 12-13 days they were in police custody and no recovery has been made, in my view, the applicants are entitled to bail. Accordingly, I pass the following order:-

ORDER

The applicants be released on bail on their executing personal bond of Rs.25,000/- each with two sureties of the like amount in connection with C.R. No.296 of 2007 registered with Dehu Road Police Station, Pune.

(D.G. KARNIK, J.)